

COMPTROLLER GENERAL OF THE UNITED STATES

Washington 25

B-91347

December 30, 1949

The Chairman

Atomic Energy Commission

My dear Mr. Chairman:

Reference is made to your letter of December 15, 1949, requesting decision whether the Controller of the Atomic Energy Commission may have his salary fixed at a rate of \$14,000 per annum, which is equivalent to the compensation rate provided by grade GS-18 under the Classification Act of 1949, Public Law 429, approved October 28, 1949.

Section 12 (a)(4) of the Atomic Energy Act of 1946, 60 Stat. 771, provides that, in the performance of its functions, the Atomic Energy Commission is authorized to:

"(4) appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. Such officers and employees shall be appointed in accordance with the civil-service laws and their compensation fixed in accordance with the Classification Act of 1923, as amended, except that to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and their compensation fixed without regard to such laws. The Commission shall make adequate provision for administrative review of any determination to dismiss any employee;"

It is stated in your letter that, under authority contained in the above provision of law, the Commission previously determined that it was necessary to the discharge of its responsibilities to exempt from the Civil Service laws and the Classification Act of 1923, as amended, all positions established by the Commission. The Classi-

Classification Act of 1949, Public Law 429, approved October 28, 1949, inter alia, repeals and supersedes the Classification Act of 1923, as amended, and specifically provides in section 202 (17) thereof that "This Act (except title XII) shall not apply to * * * the Atomic Energy Commission." As indicated in your letter, the effect of that provision is to preserve the practice followed by the Atomic Energy Commission of exempting its positions from the Classification laws.

However, there is for consideration the appropriation for the Atomic Energy Commission for the fiscal year 1950 included in the Independent Offices Appropriation Act, 1950, Public Law 266 approved August 24, 1949, which contains the following provision:

"* * * Provided, That no part of this appropriation shall be used to pay the salary of any officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel) whose position would be subject to the Classification Act of 1923, as amended, if such Act were applicable to such position, at a rate in excess of the rate payable under such Act for positions of equivalent difficulty or responsibility * * *."

Also, there is for consideration section 1106(a) of the Classification Act of 1949, which provides:

"SEC. 1106. (a) Whenever reference is made in any other law to the Classification Act of 1923, as amended, such reference shall be held and considered to mean this Act. Whenever reference is made in any other law to a grade of the Classification Act of 1923, as amended, such reference shall be held and considered to mean the corresponding grade shown in section 604 of this Act."

In connection with the matter, your letter states that, with respect to the salary to be paid to its Controller, the Commission has given careful consideration to the statutory standards established by the Congress for grade GS-18 of the civil service, which standards

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appear in section 602(a) of the Classification Act of 1949, and has determined that its Controller occupies a position of "equivalent difficulty or responsibility" to the classes of positions described for grade GS-18 and that his salary should be fixed at \$14,000.

When the above-quoted provision contained in the Independent Offices Appropriation Act of 1950 is considered in the light of the terms of section 1106 (a) of the Classification Act of 1949, the conclusion appears warranted that the salaries of its officers and employees (other than those whose compensation is fixed by law, and scientific and technical personnel) may be fixed by the Commission at rates not in excess of the rates payable under the Classification Act of 1949 for positions of equivalent difficulty or responsibility. Also, while section 505(b) of the Classification Act of 1949 restricts to 25 the number of positions that may be placed in grade GS-18, and provides that no position shall be placed or removed from said grade except by the President upon recommendation of the Civil Service Commission, the terms of said act do not apply to the Atomic Energy Commission. Therefore, it appears that the Atomic Energy Commission has authority to fix the salary of its Controller at a rate of \$14,000 per year upon a determination that such position is one "of equivalent difficulty or responsibility" to the classes of positions described in section 602(a) of the Classification Act of 1949 for grade GS-18, and you are advised that this Office will

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not object to salary payments made accordingly, it not appearing that the determination of the Commission is arbitrary or unreasonable.

Sincerely yours,

(Signed) Lindsay C. Warren

Comptroller General
of the United States

UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON 25, D. C.

December 15, 1949

My dear Mr. Warren:

Because of the recent resignation of the Controller of the Atomic Energy Commission, steps are now being taken by the Commission to fill this very important post. The Commission believes that its ability to obtain the services of an individual with outstanding qualifications will depend in considerable measure on the salary attaching to the office. After careful review of the nature of the Controller's responsibilities the Commission has determined that the Controller's salary should be fixed at \$14,000, which is equivalent to the salary for grade 18 under the recently enacted Classification Act of 1949. In order that a firm offer of employment at that salary can be made, the Commission requests that you consider this question in advance.

Particularly because the Commission carries on so many of its activities through various types of operating contractors, its Controller has a most important role in the sound and efficient management of the Commission's operations. The functions for which the Controller is responsible have, we feel, become well known to you as a result of the close working relations which have existed between your office and the Commission during the past three years. Because of the nature of the duties assigned to its Controller, the Commission considers it essential that the position be filled by an individual with exceptionally high qualifications.

Section 12 (a)(4) of the Atomic Energy Act provides that in the performance of its functions the Commission is authorized to "appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission." It further provides that "Such officers and employees shall be appointed in accordance with the civil-service laws and the compensation fixed in accordance with the Classification Act of 1923, as amended, except that to the extent the Commission deems such action necessary to the discharge of its responsibilities, personnel may be employed and the compensation fixed without regard to such laws." Pursuant to this provision the Commission has previously determined that it was necessary to the discharge of its responsibilities that all positions established by the Commission should be exempt from the Civil Service laws and the Classification Act as amended. This exemption was expressly preserved by Section 202 (17) of the Classification Act of 1949, which provides that "This Act (except Title XII) shall not apply to . . . (17) of the Atomic Energy Commission."

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The salaries of officers and employees of the Commission are subject to a provision in the Commission's current Appropriation Act (Independent Offices Appropriation Act, 1950), reading as follows:

"Provided, That no part of this appropriation shall be used to pay the salary of any officer or employee (except such officers and employees whose compensation is fixed by law, and scientific and technical personnel) whose position would be subject to the Classification Act of 1923, as amended, if such Act were applicable to such position, at a rate in excess of the rate payable under such Act for positions of equivalent difficulty or responsibility."

Section 1106 (a) of the Classification Act of 1949 states that "whenever reference is made in any other law to the Classification Act of 1923, as amended, such reference shall be held and considered to mean this Act." In determining the salary to be paid to its Controller the Commission has given careful consideration to the statutory standards established by the Congress for grade 18 of the civil service. These statutory standards, which appear in Section 602 (a) of the Classification Act of 1949, are as follows:

"Grade GS-18 includes all classes of positions the duties of which are (1) to serve as the head of a bureau where the position, considering the kind and extent of the authorities and responsibilities vested in it, and the scope, complexity, and degree of difficulty of the activities carried on, is exceptional and outstanding among the whole group of positions of heads of bureaus; (2) to plan and direct or to plan and execute frontier or unprecedented professional, scientific, technical, administrative, fiscal, or other specialized programs of outstanding difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated outstanding leadership and attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or (3) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications."

The Atomic Energy Commission has determined that its Controller occupies a position "of equivalent difficulty or responsibility" to the classes of positions described by grade 18, and has determined that the salary of its Controller shall be fixed at \$14,000.

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Your early consideration of this matter would be very much appreciated.

Sincerely yours,

UNITED STATES ATOMIC ENERGY COMMISSION

David E. Lilienthal
Chairman

Honorable Lindsay C. Warren
The Comptroller General
of the United States
Washington 25, D.C.

MEMO ROUTE SLIP

Form AEC-93 (Rev. May 14, 1947)

Approved For Release 2005/08/16 : CIA-RDP62-00631R000200100050-5

See me about this.

For concurrence.

For action.

Note and return.

For signature.

For information.

TO (Name and unit)

INITIALS

REMARKS

Mr. L.R. Houston
General Counsel,
Central Intelligence
Agency

DATE

Larry:

Here's the Comptroller General's decision affirming the Commission's authority to fix the salary of its Controller at \$14,000, together with our letter of submission. We have not yet taken action on other

TO (Name and unit)

INITIALS

REMARKS

DATE

TO (Name and unit)

INITIALS

REMARKS

DATE

FROM (Name and unit)

REMARKS

J. A. Wilson
Office of General
Counsel, AEC

PHONE NO.
665

DATE

1-31-50

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